

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JAMES N. GILMORE,)
)
Plaintiff,)
)
vs.) Case No. 4:05CV1586 CDP
)
STATE OF MISSOURI, et al.,)
)
Defendants.)

MEMORANDUM AND ORDER

This prisoner suit brought under 42 U.S.C. § 1983 is before the court on the motion of plaintiff's counsel to withdraw, and on plaintiff's response to that motion. Also pending are defendants' motions to dismiss and for summary judgment. Defendants' motions argue, among other things, that plaintiff has failed to exhaust the prison grievance system. Plaintiff has not yet briefed the issues raised in defendants' motions.

Plaintiff's counsel seeks to withdraw, alleging that an unspecified "conflict" prevents him from proceeding. In response to my show cause order, plaintiff filed a pro se statement indicating that the conflict was a financial one, but asking that his case be dismissed without prejudice.

Although the motion to withdraw and plaintiff's response raise several troubling issues, plaintiff himself has sought dismissal. Additionally, it appears that

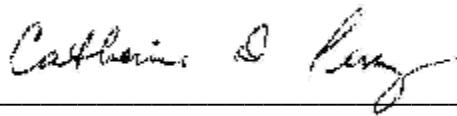
the defendants' motion related to lack of exhaustion may be well taken. Given that dismissal might be required anyway, if plaintiff has in fact not fully exhausted his prison remedies with regard to all claims, I will grant plaintiff's pro se request that the case be dismissed without prejudice.

Accordingly,

IT IS HEREBY ORDERED that, as requested by plaintiff in his response to the Court's show cause order [Doc. # 27], this case is dismissed, without prejudice.

IT IS FURTHER ORDERED that all pending motions are denied as moot.

A separate Order of Dismissal is filed today.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 3rd day of January, 2006.